

FIRST REGULAR SESSION

SENATE BILL NO. 50

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR STOUFFER.

Pre-filed December 1, 2006, and ordered printed.

TERRY L. SPIELER, Secretary.

0173S.02I

AN ACT

To repeal sections 302.545, 302.700, 302.755, 302.775, and 311.326, RSMo, and to enact in lieu thereof five new sections relating to commercial drivers licenses, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 302.545, 302.700, 302.755, 302.775, and 311.326, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 302.545, 302.700, 302.755, 302.775, and 311.326, to read as follows:

302.545. 1. Any person who is less than twenty-one years of age and whose driving privilege has been suspended or revoked, for a first determination under sections 302.500 to 302.540, that such person was driving with two-hundredths of one percent of blood alcohol content, shall have all official records and all recordations maintained by the department of revenue of such suspension or revocation expunged two years after the date of such suspension or revocation, or when such person attains the age of twenty-one, whichever date first occurs. Such expungement shall be performed by the department of revenue without need of a court order. No records shall be expunged if the person was found guilty or pled guilty to operating a commercial motor vehicle, as defined in section 302.700, **or if the person was holding a commercial driver's license at the time of the offense** with a blood alcohol content of at least four-hundredths of one percent.

2. The provisions of this section shall not apply to any person whose license is suspended or revoked for a second or subsequent time pursuant to subsection 1 of this section or who is convicted of any alcohol-related driving offense before the age of twenty-one including, but not limited to:

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

18 (1) Driving while intoxicated pursuant to section 577.010, RSMo; or

19 (2) Driving with excessive blood alcohol content pursuant to section
20 577.012, RSMo.

302.700. 1. Sections 302.700 to 302.780 may be cited as the "Uniform
2 Commercial Driver's License Act".

3 2. When used in sections 302.700 to 302.780, the following words and
4 phrases mean:

5 (1) "Alcohol", any substance containing any form of alcohol, including, but
6 not limited to, ethanol, methanol, propanol and isopropanol;

7 (2) "Alcohol concentration", the number of grams of alcohol per one
8 hundred milliliters of blood or the number of grams of alcohol per two hundred
9 ten liters of breath or the number of grams of alcohol per sixty-seven milliliters
10 of urine;

11 (3) "Commercial driver's instruction permit", a permit issued pursuant to
12 section 302.720;

13 (4) "Commercial driver's license", a license issued by this state to an
14 individual which authorizes the individual to operate a commercial motor vehicle;

15 (5) "Commercial driver's license information system", the information
16 system established pursuant to the Commercial Motor Vehicle Safety Act of 1986
17 (Title XII of Pub. Law 99-570) to serve as a clearinghouse for locating
18 information related to the licensing and identification of commercial motor vehicle
19 drivers;

20 (6) "Commercial motor vehicle", a motor vehicle designed or used to
21 transport passengers or property:

22 (a) If the vehicle has a gross combination weight rating of twenty-six
23 thousand one or more pounds inclusive of a towed unit which has a gross vehicle
24 weight rating of ten thousand one pounds or more;

25 (b) If the vehicle has a gross vehicle weight rating of twenty-six thousand
26 one or more pounds or such lesser rating as determined by federal regulation;

27 (c) If the vehicle is designed to transport sixteen or more passengers,
28 including the driver; or

29 (d) If the vehicle is transporting hazardous materials and is required to
30 be placarded under the Hazardous Materials Transportation Act (46 U.S.C. 1801
31 et seq.);

32 (7) "Controlled substance", any substance so classified under Section
33 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), and includes all
34 substances listed in schedules I through V of 21 CFR part 1308, as they may be

35 revised from time to time;

36 (8) "Conviction", an unvacated adjudication of guilt, including pleas of
37 guilt and nolo contendere, or a determination that a person has violated or failed
38 to comply with the law in a court of original jurisdiction or an authorized
39 administrative proceeding, an unvacated forfeiture of bail or collateral deposited
40 to secure the person's appearance in court, the payment of a fine or court cost, or
41 violation of a condition of release without bail, regardless of whether the penalty
42 is rebated, suspended or prorated, **including an offense for failure to appear**
43 **or pay;**

44 (9) "Director", the director of revenue or his authorized representative;

45 (10) "Disqualification", any of the following three actions:

46 (a) The suspension, revocation, or cancellation of a commercial driver's
47 license;

48 (b) Any withdrawal of a person's privileges to drive a commercial motor
49 vehicle by a state as the result of a violation of federal, state, county, municipal,
50 or local law relating to motor vehicle traffic control or violations committed
51 through the operation of motor vehicles, other than parking, vehicle weight, or
52 vehicle defect violations;

53 (c) A determination by the Federal Motor Carrier Safety Administration
54 that a person is not qualified to operate a commercial motor vehicle under 49 CFR
55 Part 383.52 or Part 391;

56 (11) "Drive", to drive, operate or be in physical control of a commercial
57 motor vehicle;

58 (12) "Driver", any person who drives, operates, or is in physical control of
59 a motor vehicle, or who is required to hold a commercial driver's license;

60 (13) "Driving under the influence of alcohol", the commission of any one
61 or more of the following acts:

62 (a) Driving a commercial motor vehicle with the alcohol concentration of
63 four one-hundredths of a percent or more as prescribed by the secretary or such
64 other alcohol concentration as may be later determined by the secretary by
65 regulation;

66 (b) Driving a commercial or noncommercial motor vehicle while
67 intoxicated in violation of any federal or state law, or in violation of a county or
68 municipal ordinance;

69 (c) Driving a commercial or noncommercial motor vehicle with excessive
70 blood alcohol content in violation of any federal or state law, or in violation of a
71 county or municipal ordinance;

72 (d) Refusing to submit to a chemical test in violation of section 577.041,
73 RSMo, section 302.750, any federal or state law, or a county or municipal
74 ordinance; or

75 (e) Having any state, county or municipal alcohol-related enforcement
76 contact, as defined in subsection 3 of section 302.525; provided that any
77 suspension or revocation pursuant to section 302.505, committed in a
78 noncommercial motor vehicle by an individual twenty-one years of age or older
79 shall have been committed by the person with an alcohol concentration of at least
80 eight-hundredths of one percent or more, or in the case of an individual who is
81 less than twenty-one years of age, shall have been committed by the person with
82 an alcohol concentration of at least two-hundredths of one percent or more, and
83 if committed in a commercial motor vehicle, a concentration of four-hundredths
84 of one percent or more;

85 (14) "Driving under the influence of a controlled substance", the
86 commission of any one or more of the following acts in a commercial or
87 noncommercial motor vehicle:

88 (a) Driving a commercial or noncommercial motor vehicle while under the
89 influence of any substance so classified under Section 102(6) of the Controlled
90 Substances Act (21 U.S.C. 802(6)), including any substance listed in schedules I
91 through V of 21 CFR Part 1308, as they may be revised from time to time;

92 (b) Driving a commercial or noncommercial motor vehicle while in a
93 drugged condition in violation of any federal or state law or in violation of a
94 county or municipal ordinance; or

95 (c) Refusing to submit to a chemical test in violation of section 577.041,
96 RSMo, section 302.750, any federal or state law, or a county or municipal
97 ordinance;

98 (15) "Employer", any person, including the United States, a state, or a
99 political subdivision of a state, who owns or leases a commercial motor vehicle or
100 assigns a driver to operate such a vehicle;

101 (16) "Farm vehicle", a commercial motor vehicle controlled and operated
102 by a farmer used exclusively for the transportation of agricultural products, farm
103 machinery, farm supplies, or a combination of these, within one hundred fifty
104 miles of the farm, other than one which requires placarding for hazardous
105 materials as defined in this section, or used in the operation of a common or
106 contract motor carrier, except that a farm vehicle shall not be a commercial motor
107 vehicle when the total combined gross weight rating does not exceed twenty-six
108 thousand one pounds when transporting fertilizers as defined in subdivision (21)

109 of this subsection;

110 (17) "Fatality", the death of a person as a result of a motor vehicle
111 accident;

112 (18) "Felony", any offense under state or federal law that is punishable by
113 death or imprisonment for a term exceeding one year;

114 (19) "Gross combination weight rating" or "GCWR", the value specified by
115 the manufacturer as the loaded weight of a combination (articulated) vehicle. In
116 the absence of a value specified by the manufacturer, GCWR will be determined
117 by adding the GVWR of the power unit and the total weight of the towed unit and
118 any load thereon;

119 (20) "Gross vehicle weight rating" or "GVWR", the value specified by the
120 manufacturer as the loaded weight of a single vehicle;

121 (21) "Hazardous materials", hazardous materials as specified in Section
122 103 of the Hazardous Materials Transportation Act (49 U.S.C. 1801 et
123 seq.). Fertilizers, including but not limited to ammonium nitrate, phosphate,
124 nitrogen, anhydrous ammonia, lime, potash, motor fuel or special fuel, shall not
125 be considered hazardous materials when transported by a farm vehicle provided
126 all other provisions of this definition are followed;

127 (22) "Imminent hazard", the existence of a condition that presents a
128 substantial likelihood that death, serious illness, severe personal injury, or a
129 substantial endangerment to health, property, or the environment may occur
130 before the reasonably foreseeable completion date of a formal proceeding begins
131 to lessen the risk of that death, illness, injury, or endangerment;

132 (23) "Issuance", the initial licensure, license transfers, license renewals,
133 and license upgrades;

134 (24) "Motor vehicle", any self-propelled vehicle not operated exclusively
135 upon tracks;

136 (25) "Noncommercial motor vehicle", a motor vehicle or combination of
137 motor vehicles not defined by the term "commercial motor vehicle" in this section;

138 (26) "Out of service", a temporary prohibition against the operation of a
139 commercial motor vehicle by a particular driver, or the operation of a particular
140 commercial motor vehicle, or the operation of a particular motor carrier;

141 (27) "Out-of-service order", a declaration by the Federal Highway
142 Administration, or any authorized enforcement officer of a federal, state,
143 Commonwealth of Puerto Rico, Canadian, Mexican or any local jurisdiction, that
144 a driver, or a commercial motor vehicle, or a motor carrier operation, is out of
145 service;

146 (28) "School bus", a commercial motor vehicle used to transport
147 preprimary, primary, or secondary school students from home to school, from
148 school to home, or to and from school-sponsored events. School bus does not
149 include a bus used as a common carrier as defined by the Secretary;

150 (29) "Secretary", the Secretary of Transportation of the United States;

151 (30) "Serious traffic violation", driving a commercial motor vehicle in such
152 a manner that the driver receives a conviction for the following offenses or driving
153 a noncommercial motor vehicle when the driver receives a conviction for the
154 following offenses and the conviction results in the suspension or revocation of the
155 driver's license or noncommercial motor vehicle driving privilege:

156 (a) Excessive speeding, as defined by the Secretary by regulation;

157 (b) Careless, reckless or imprudent driving which includes, but shall not
158 be limited to, any violation of section 304.016, RSMo, any violation of section
159 304.010, RSMo, or any other violation of federal or state law, or any county or
160 municipal ordinance while driving a commercial motor vehicle in a willful or
161 wanton disregard for the safety of persons or property, or improper or erratic
162 traffic lane changes, or following the vehicle ahead too closely, but shall not
163 include careless and imprudent driving by excessive speed;

164 (c) A violation of any federal or state law or county or municipal ordinance
165 regulating the operation of motor vehicles arising out of an accident or collision
166 which resulted in death to any person, other than a parking violation;

167 (d) Driving a commercial motor vehicle without obtaining a commercial
168 driver's license in violation of any federal or state or county or municipal
169 ordinance;

170 (e) Driving a commercial motor vehicle without a commercial driver's
171 license in the driver's possession in violation of any federal or state or county or
172 municipal ordinance. Any individual who provides proof to the court which has
173 jurisdiction over the issued citation that the individual held a valid commercial
174 driver's license on the date that the citation was issued shall not be guilty of this
175 offense;

176 (f) Driving a commercial motor vehicle without the proper commercial
177 driver's license class or endorsement for the specific vehicle group being operated
178 or for the passengers or type of cargo being transported in violation of any federal
179 or state law or county or municipal ordinance; or

180 (g) Any other violation of a federal or state law or county or municipal
181 ordinance regulating the operation of motor vehicles, other than a parking
182 violation, as prescribed by the secretary by regulation;

183 (31) "State", a state, territory or possession of the United States, the
184 District of Columbia, the Commonwealth of Puerto Rico, Mexico, and any province
185 of Canada;

186 (32) "United States", the fifty states and the District of Columbia.

302.755. 1. A person is disqualified from driving a commercial motor
2 vehicle for a period of not less than one year if convicted of a first violation of:

3 (1) Driving a motor vehicle under the influence of alcohol or a controlled
4 substance;

5 (2) Driving a commercial motor vehicle which causes a fatality through
6 the negligent operation of the commercial motor vehicle, including but not limited
7 to the crimes of vehicular manslaughter, homicide by motor vehicle, and negligent
8 homicide;

9 (3) Driving a commercial motor vehicle while revoked pursuant to section
10 302.727;

11 (4) Leaving the scene of an accident involving a commercial or
12 noncommercial motor vehicle operated by the person;

13 (5) Using a commercial or noncommercial motor vehicle in the commission
14 of any felony, as defined in section 302.700, except a felony as provided in
15 subsection 4 of this section.

16 2. If any of the violations described in subsection 1 of this section occur
17 while transporting a hazardous material the person is disqualified for a period of
18 not less than three years.

19 3. Any person is disqualified from operating a commercial motor vehicle
20 for life if convicted of two or more violations of any of the offenses specified in
21 subsection 1 of this section, or any combination of those offenses, arising from two
22 or more separate incidents. The director may issue rules and regulations, in
23 accordance with guidelines established by the secretary, under which a
24 disqualification for life under this section may be reduced to a period of not less
25 than ten years.

26 4. Any person is disqualified from driving a commercial motor vehicle for
27 life who uses a commercial or noncommercial motor vehicle in the commission of
28 any felony involving the manufacture, distribution, or dispensing of a controlled
29 substance, or possession with intent to manufacture, distribute, or dispense a
30 controlled substance.

31 5. Any person is disqualified from operating a commercial motor vehicle
32 for a period of not less than sixty days if convicted of two serious traffic violations
33 or one hundred twenty days if convicted of three serious traffic violations, arising

34 from separate incidents occurring within a three-year period.

35 6. Any person found to be operating a commercial motor vehicle while
36 having any measurable alcohol concentration shall immediately be issued a
37 continuous twenty-four-hour out-of-service order by a law enforcement officer in
38 this state.

39 7. Any person who is convicted of operating a commercial motor vehicle
40 beginning at the time of issuance of the out-of-service order until its expiration
41 is guilty of a class A misdemeanor.

42 8. Any person convicted for the first time of driving while out of service
43 shall be disqualified from driving a commercial motor vehicle for a period of
44 **[ninety] one hundred eighty** days.

45 9. Any person convicted of driving while out of service on a second
46 occasion during any ten-year period, involving separate incidents, shall be
47 disqualified for a period of **[one year] two years**.

48 10. Any person convicted of driving while out of service on a third or
49 subsequent occasion during any ten-year period, involving separate incidents,
50 shall be disqualified for a period of three years.

51 11. Any person convicted of a first violation of an out-of-service order
52 while transporting hazardous materials or while operating a motor vehicle
53 designed to transport sixteen or more passengers, including the driver, is
54 disqualified for a period of one hundred eighty days.

55 12. Any person convicted of any subsequent violation of an out-of-service
56 order in a separate incident within ten years after a previous violation, while
57 transporting hazardous materials or while operating a motor vehicle designed to
58 transport fifteen passengers, including the driver, is disqualified for a period of
59 three years.

60 13. Any person convicted of any other offense as specified by regulations
61 promulgated by the Secretary of Transportation shall be disqualified in
62 accordance with such regulations.

63 14. After suspending, revoking, canceling or disqualifying a driver, the
64 director shall update records to reflect such action and notify a nonresident's
65 licensing authority and the commercial driver's license information system within
66 ten days in the manner prescribed in 49 CFR Part 384, or as amended by the
67 Secretary.

68 15. Any person disqualified from operating a commercial motor vehicle
69 pursuant to subsection 1, 2, 3 or 4 of this section shall have such commercial
70 driver's license canceled, and upon conclusion of the period of disqualification

71 shall take the written and driving tests and meet all other requirements of
72 sections 302.700 to 302.780. Such disqualification and cancellation shall not be
73 withdrawn by the director until such person reapplies for a commercial driver's
74 license in this or any other state after meeting all requirements of sections
75 302.700 to 302.780.

76 16. The director shall disqualify a driver upon receipt of notification that
77 the Secretary has determined a driver to be an imminent hazard pursuant to 49
78 CFR, Part 383.52. Due process of a disqualification determined by the Secretary
79 pursuant to this section shall be held in accordance with regulations promulgated
80 by the Secretary. The period of disqualification determined by the Secretary
81 pursuant to this section shall be served concurrently to any other period of
82 disqualification which may be imposed by the director pursuant to this
83 section. Both disqualifications shall appear on the driving record of the driver.

84 **17. The director shall disqualify a commercial license holder or**
85 **operator of a commercial vehicle from operation of any commercial**
86 **motor vehicle upon receipt of a conviction for an offense of failure to**
87 **appear or pay, and such disqualification shall remain in effect until the**
88 **director receives notice that the person has complied with the**
89 **requirement to appear or pay.**

302.775. The provisions of sections 302.700 to 302.780 shall not apply to:

- 2 (1) Any person driving a farm vehicle as defined in section 302.700;
- 3 (2) Any active duty military personnel, members of the reserves and
4 national guard on active duty, including personnel on full-time national guard
5 duty, personnel on part-time training and national guard military technicians,
6 while driving [military] vehicles for military purposes;
- 7 (3) Any person who drives emergency or fire equipment necessary to the
8 preservation of life or property or the execution of emergency governmental
9 functions under emergency conditions;
- 10 (4) Any person qualified to operate the equipment under subdivision (3)
11 of this section when operating such equipment in other functions such as parades,
12 special events, repair, service or other authorized movements;
- 13 (5) Any person driving or pulling a recreational vehicle, as defined in
14 sections 301.010 and 700.010, RSMo, for personal use; and
- 15 (6) Any other class of persons exempted by rule or regulation of the
16 director, which rule or regulation is in compliance with the Commercial Motor
17 Vehicle Safety Act of 1986 and any amendments or regulations drafted to that act.

311.326. After a period of not less than one year, or upon reaching the age

2 of twenty-one, whichever occurs first, a person who has pleaded guilty to or has
3 been found guilty of violating section 311.325 for the first time, and who since
4 such conviction has not been convicted of any other alcohol-related offense, may
5 apply to the court in which he or she was sentenced for an order to expunge all
6 official records of his or her arrest, plea, trial and conviction. **No records shall**
7 **be expunged if the person who has plead guilty to or has been found**
8 **guilty of violating section 311.325 is licensed as a commercial motor**
9 **vehicle driver or was operating a commercial motor vehicle as defined**
10 **in section 302.700, RSMo, at the time of the violation.** If the court
11 determines, upon review, that such person has not been convicted of any other
12 alcohol-related offense at the time of the application for expungement, and the
13 person has had no other alcohol-related enforcement contacts, as defined in
14 section 302.525, RSMo, the court shall enter an order of expungement. The effect
15 of such an order shall be to restore such person to the status he or she occupied
16 prior to such arrest, plea or conviction, as if such event had never happened. No
17 person as to whom such order has been entered shall be held thereafter under
18 any provision of any law to be guilty of perjury or otherwise giving a false
19 statement by reason of his or her failure to recite or acknowledge such arrest,
20 plea, trial, conviction or expungement in response to any inquiry made of him or
21 her for any purpose whatsoever. A person shall be entitled to only one
22 expungement pursuant to this section. Nothing contained in this section shall
23 prevent courts or other state officials from maintaining such records as are
24 necessary to ensure that an individual receives only one expungement pursuant
25 to this section.

Copy ✓